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MS-AF

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

Hubert BECK

Serial No.: 10/779,290

Filed: February 13, 2004

For: Bellows For Hydraulic, Hydropneumatic, or Pneumatic Piston-Cylinder Units

Examiner: Nguyen, Xuan Lan T.  
Group Art: 3683

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# PRE-APPEAL BRIEF REQUEST FOR REVIEW

SIR:

This is a Request for a Panel Review of Issues on Appeal in accordance with the Office Gazette Notice dated July 12, 2005. The present request is filed concurrently with a Notice of Appeal and a request for a two-month extension of time. No amendments are being filed with this request. Arguments supporting the Request begin on page 1 of the present communication.

## REMARKS

This Notice of Appeal and Request is filed in response to the final Office Action dated February 12, 2008 and the Advisory Action dated June 13, 2008. Claims 1, 4-7, and 9-12 are pending. Claim 1 is the sole independent claim. The issue for review is whether dependent claims 11 and 12 are unpatentable over U.S. Pat. 3,954,257 (“Keijzer”) in view of U.S. Pat. 2,458,157 (“Funkhouser”), and further in view of U.S. Patent No. 5,267,725 (“Wode”).

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Dependent claim 11

Dependent claim 11 recites, “the cylinder comprises a lower attachment part formed with a circumferential groove, said bellows having a bead which engages said groove”.

The Examiner concedes that Keijzer and Funkhouser fail to teach or suggest the subject matter recited in claim 11. However, the Examiner cites Wode as teaching a bead engaging a groove.

Applicants submit that the Examiner has misinterpreted Wode because Wode expressly states that element 1 is an end section of a beadless sleeve-type flexible member.

Wode discloses an air spring with a sleeve-type flexible member made of elastomeric material and includes end sections connected to connecting parts by radially plastically deformed clamping rings. According to Wode, an end section 1 of a beadless sleeve-type flexible member 2 is pushed onto a step 5, which is on an end of a cylindrical projection 3 (i.e., a roll-off piston 4) (see col. 2, lines 55-63 of Wode). A circular slot 6 is disposed below the end of the step 5 on the cylindrical projection 3 in which a projection 7 of a radially plastically deformed clamping ring 8 is received (see col. 2, lines 64-69 of Wode).

An upper end of the cylindrical projection 3 includes a holding rib 9, and the clamping ring 8 includes another holding rib 11 which is disposed opposite the holding rib 9 (see col. 3, lines 3-14 of Wode). The clamping of the flexible member 2 by the clamping ring 8 is thus intensified by the ribs 9, 11 (see col. 3, lines 15-19 of Wode).

In other words, the flexible member 2 of Wode, which is beadless (i.e., does not include a bead), is sandwiched (or crimped, pinched) between the holding rib 9 and the holding rib 11. There is nothing at the end of the flexible member 2 of Wode that could be remotely confused with a bead. Further, there is no groove in the cylindrical projection 3 for the flexible member 2 to engage. The circular slot 7 receives the circular projection of the clamping ring 8, and not the flexible member 2.

In contrast to Wode, Applicants’ recited bellows 8 includes a bead (see the round cross-sectional area directly right of the area indicated as the “undercut” area 11 in Applicants’ Fig. 3). The bead of the bellows 8 engages a circumferential groove (see the bead in the engaged position in Fig. 3).

The Examiner asserts in the Advisory Action that although Applicants recited bead has a round cross section and Wode's flexible member 2 has a rectangular cross section, both elements serve the same purpose and are therefore equivalent.

The only similarity in function is that they both are mounted over a circumferential surface. However, Applicants' claim 11 recites a structural difference that has the added advantage of enabling the bellows 8 to be coupled to the cylinder 14 without the need for an additional clamping ring, as is required with the configuration of Wode.

Because Wode expressly states that sleeve-type flexible member 2 is beadless, Wode fails to teach or suggest "the cylinder comprises a lower attachment part formed with a circumferential groove, said bellows having a bead which engages said groove", as recited in claim 11. Accordingly, claim 11 is allowable over the combined teachings of Keijzer, Funkhouser, and Wode.

#### Dependent claim 12

Dependent claim 12, which depends from claim 11, further recites, "the bellows comprises a collar surrounding said bead and which extends radially from said bead, said collar having a radially outer edge portion that is loaded axially against the cylinder".

The Examiner concedes that Keijzer and Funkhouser fail to teach or suggest the subject matter recited in claim 12. However, the Examiner cites Wode as teaching a collar 7, 8 surrounding a bead and which extends radially from the bead (i.e., circular projection 7), which has a radially outer edge portion (i.e., clamping ring 8) that is loaded axially against the cylinder of Keijzer.

Applicants submit that the Examiner has misinterpreted Wode because Wode expressly states that the element 7, 8 is a radially plastically deformed clamping ring that is not axially loaded against a cylinder.

Wode specifically describes clamping ring 8 as being radially plastically deformed. There is no teaching or suggestion that the element 7, 8 has a collar with "a radially outer edge portion that is loaded axially against the cylinder" (see col. 2, lines 66-68 of Wode). In other words, when the flexible member 2 is inserted between the holding rib 8 and the holding rib 11, the holding rib 8 applies a radially directed holding force against the flexible member 2. There is no axial loading (force) against the piston 4.

In contrast to Wode, Applicants' recited radial extension 12 extends radially from the upper portion of the bead and curves downward (see Fig. 3 of Applicants' specification). The downward curve of the radial extension 12 is held against the cylinder 14 under pretension due, in part, to the bead being engaged in the groove (see paragraph [0020] of the published version of the present application US 2004/0188199). Thus, the radial extension 12 is loaded axially against the cylinder 14, which is clearly different from the radial deformation of the holding rib/clamping ring 8 of Wode.

Since the clamping ring 8 of Wode is radially deformed, Wode fails to teach or suggest "the bellows comprises a collar surrounding said bead and which extends radially from said bead, said collar having a radially outer edge portion that is loaded axially against the cylinder", as expressly recited in dependent claim 12. Accordingly, claim 12 is allowable over the combination of Keijzer, Funkhouser, and Wode.

In view of the above remarks, the subject matter of at least claims 11 and 12 is deemed to be allowable over the prior art of record and notice to that effect is solicited.

### **Conclusion**

In view of the above remarks, Keijzer and Funkhouser fail to teach or suggest the recited features of claims 11 and 12. Accordingly, at least the rejection of claims 11 and 12 should be withdrawn.

If any additional fees are required at this time in connection with the present application, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,  
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